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1 c.s. 2006

SINGLE BENCH

BEFORE THE HON'BLE HIGH COURT OF JUDICATURE BILASPUR. (C.G.)

W.P.(L) NO ..5832/06

1 Smt. Savitri Devi Agrawal,
Aged about 74 years,
Wife of Shri Mathuram Agrawal
Proprietor/Occupier
Singhal Humes Pipes & RCC Products,
Manendra Garh Road,
Ambikapur (Sarguja)

2. Dipak Agrawal,
Aged about 33 years,
S/o Shri Ramchandra Agrwal
Factory Manager
Singhal Humes Pipes & RCC Products,
Manendra Garh Road,
Ambikapur. (Sarguja) .. PETITIONERS.

Vs.

1. State of Chhattisgarh,
Through the Secretary,
Labour Department,
DKS Bhawan,
Mantralaya,
Raipur.

2. Factory Inspector,
O/o: Deputy Director,
Industrial Health & Safety,
Bilaspur.

P.R. No. 5858/06
Presented by Shri S. Tandan
dated 26-10-06

3. State Industrial Court of C.G. at Raipur
Mahanadi Khand,
Near D.K.S. Bhawan,
Raipur. ... RESPONDENTS.

1:30 Arr.

COMMISSIONER
R. Kaushik
25/10/06

WRIT PETITION UNDER ARTICLE 226/227 CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF CERTITIORAY OR MANDAMOUS OR LIKE NATURE.

(94)

HIGH COURT OF JUDICATURE AT BILASPUR : CHHATTISGARH

SINGLE BENCH : HON'BLE SHRI SATISH K. AGNIHOTRI, J.

WRIT PETITION (L) NO. 5832 OF 2006

PETITIONERS Smt. Savitri Devi Agrawal and another.

Versus

RESPONDENTS State of Chhattisgarh and others.

Present : Shri N.K. Vyas, counsel for the petitioners.
Shri Utkarsh Verma, Dy. G.A. for the State.

(ORAL ORDER)
(Passed on 30TH October, 2006)

The petitioners have impugned the order dated 16-10-2006 passed by the Industrial Court in Criminal Appeal No. 03 /CGIRAct/2006, whereby the application of the petitioners dated 16-10-2006 for constituting a Bench consisting of two or more members for disposal of the Criminal Appeal pending before the Court was dismissed. The Industrial Court without assigning any reason has dismissed the application on the ground that the Industrial Court Formation of Benches Rules are no longer in existence and Industrial Court Rules, 2000 are in force.

(2) Learned counsel appearing for the petitioners refers to the Exercise of powers and functions of Industrial Court Rules, 2000 (for short "the Rules, 2000) and submits that Rule 5 of the Rules, 2000 clearly provides for constitution of a Bench consisting of two or more members. Rule 5 of the Rules, 2000 reads thus:

> "5. The following matters shall ordinarily be heard at motion or final stage and disposed of by Bench consisting of two or more members:-

(i) appeal by the person convicted in terms of Section 65 (b) of the Act, where sentence awarded is 3 months' imprisonment or more with or without fine;

(ii) appeal by the State Government in terms of Section 65 (c) of the Act against acquittal entertainable with the leave of the Court in terms of Section 64 (2) of the Act read with Section 378 (3) of the Code of Criminal Procedure;

(iii) appeal by the State Government for enhancement of the sentence in terms of Section 65 (d) of the Act to a term of 3 months' imprisonment or more with or without fine as prayed in Memorandum of Appeal.

(iv) reference on point of law or interpretation of the Act or rules under Section 70 of the Act."

(3) Learned counsel appearing for the respondents/State concedes to the position and submits that Rules, 2000 clearly provides for constitution of a Bench consisting of two or more members.

(4) For the reasons stated above, the order of the Industrial Court dismissing the application of the petitioners dated 16-10-2006 is perverse and deserves to be set aside. Accordingly, this petition is allowed and order passed by the Industrial Court dated 16-10-2006 is set aside and the application of the petitioners is restored to the file of the Court for decision, in accordance with law.

(5) Parties are entitled for certified copy of this order, today itself.

Sd/-
Satish K. Agnihotri
Judge

Subby